DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1217–02; I.D. 101804D]

Fisheries of the Northeastern United States; Tilefish Fishery; Adjustment to 2005 Tilefish Commercial Quota and Incidental Permit Trip Limit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Tilefish commercial quota and trip limit adjustment.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator) has determined that the quota for the tilefish Part-time permit category has been exceeded for fishing year (FY) 2004, warranting an adjustment of the Part-time permit category quota for FY 2005. Further, the Regional Administrator has determined that the tilefish Incidental permit category has exceeded the 5 percent of total allowable landings (TAL) allowed under the Fishery Management Plan for the Tilefish Fishery (FMP) and warrants a reduction in the annual trip limit for FY 2005. This action complies with the FMP and is intended to continue the rebuilding program in the FMP by taking into account previous overages of the tilefish quota.

DATES: Effective October 22, 2004, through October 31, 2005.

FOR FURTHER INFORMATION CONTACT: Brian R. Hooker, Fishery Policy Analyst, (978) 281–9220.

SUPPLEMENTARY INFORMATION: The regulations at 50 CFR 648.290(c) state that any overages of the quota for any tilefish limited access category that occur in a given fishing year will be subtracted from the quota for that category in the following fishing year. This same section also states that, if the tilefish harvest attributed to the open access Incidental permit category exceeds 5 percent of the total allowable landings (TAL) for a given fishing year, the trip limit for the Incidental category may be reduced the following year. In both of these instances, § 648.290(c) specifies that, if an adjustment is required, a notification of adjustment of the quota will be published in the **Federal Register**.

The tilefish quota of 360,098 lb (163,338 kg) for the limited access Part-time permit category (Category C) is being adjusted for FY 2005 (November 1, 2004 - October 31, 2005) through this action. Based upon vessel reports available as of October 13, 2004, FY 2004 tilefish landings for Category C were 217,037 lb (98,446 kg). Therefore, an overage of 16,264 lb (7,377 kg) must be deducted from the FY 2005 Category C quota, which results in an adjusted quota of 343,834 lb (155,960 kg). As a result of the decision in the Hadaja v. Evans lawsuit on May 15, 2003, the permitting and reporting requirements for the FMP were suspended for nearly a year. The decision rendered the quotas for the various limited access permit categories, and the 5 percent of TAL target quota for the open access permit category inoperative. These requirements were reinstated on May 31, 2004. During the period that the permitting and reporting requirements were vacated, it was impossible to attribute tilefish landings to a particular permit category. Consequently, projected landings (159,307 lb (72,260 kg)) were used for the period November 1, 2003 - May 31, 2004. Based on landings for each permit category for the same time period in FY 2002 and FY 2003, a Part-time category quota of 200,791 lb (91,077 kg) was established for the remainder of FY 2004 (June 1–October 31, 2004).

Landings of tilefish by the Incidental permit category in FY 2002 totaled 105,858 lb (48,016 kg) and landings in FY 2003 totaled 178,955 lb (81,173 kg). In both FY 2002 and FY 2003, the Incidental permit category landed over 95 percent of its catch between November and May, the same time period that the reporting requirements were vacated. Thus, the majority of the landings information for the Incidental permit category are not available for FY 2004. An analysis of FY 2002 and FY 2003 landings data determined that a trip limit of 133 lb (60 kg) for Incidental category vessels would be necessary in order to not exceed the 5 percent of TAL for FY 2005 (99,750 lb (45,246 kg)). Thus, this action reduces the trip limit for Incidental category vessels for FY 2005 to 133 lb (60 kg).

This action informs the public of overages of the FY 2004 Part-time permit category quota and adjusts the FY 2005 Part-time permit category quota to account for those overages. Additionally, this action informs the public that the Incidental permit category has previously exceeded 5 percent of the TAL and thus the trip limit for the Incidental category is adjusted to 133 lb (60 kg) for FY 2005.

The FY 2004 tilefish Part-time permit category quota, available FY 2004 tilefish Part-time permit category landings, and the resulting overage of the FY 2004 tilefish Part-time permit category quota are presented in Table 1. The resulting adjusted FY 2005 tilefish Part-time permit category commercial quota is presented in Table 2.

TABLE 1. TILEFISH PART-TIME CATEGORY 2004 LANDINGS AND OVERAGE

Permit Category	2004 Quota		2004 Landings		2004 Overage	
	Lb	Kg[1]	Lb	Kg[1]	Lb	Kg[1]
Part-time	200,791	91,077	217,037	98,446	16,264	7,377

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 2. TILEFISH PART-TIME CATEGORY ADJUSTED FY 2005 QUOTA

Permit Category	2005 Initial Quota		2005 Adjusted Quota	
	Lb	Kg[1]	Lb	Kg[1]
Part-time	360,098	163,338	343,834	155,961

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 19, 2004.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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